File No. 294

1893.

Collection No.

Mysore Residency

Pros. Serial Nos. 138-139
142-143
150-151

Subject.

Proposal of the Municipal Commissioner for the levy of fees for the erection of hoyals to not accepted.

Previous References.

Later References.

Office of the Resident in Mysore.

BRANCH.

Proceedings No of the month of 19

Serial Nos. 138 of File 294 of 1893

Proceedings number.	Subject and order.	Date of last order.	Previous Proceedings.		
			Serial or Proceedings numbers and Branch	File or month.	Year.
			148		

Margin for binding not to be written in.

Office Note.

File No. 294/1893

S.138

Letter No. 2498 *dated* 14th oct 1920

from the President, M. C.

SUBJECT.

Amendment of Bangalore Municipal Law.

(1)

The Comm^rs propose to amend § 86 of the Bangalore Municipal Law; & add new two sub-sections so as:

(1) to give them power to levy fees for permission granted to owners or occupiers of building to lay any particular street to plinth open verandahs etc beyond the line of the plinth or basement wall, as provided in § 86 (3) & (1).

(2) to give them power to withdraw such permission

Instead of adding two new sub-sections perhaps the

S, 1.—R. P. B.—8·1919.—5,000.

Margin for binding not to be written on.

the following words maybe added to § 86 (3). Acts § 78.

" and may charge fees for such permission, and may at any time in its discretion withdraw any permission granted as aforesaid ".

Subs: for orders as to which the L. C. J. may be addressed in matters. + in which manner the amendments shall be made, viz as supplied by the Rules or as above.

It is enacted that where Common adverse possession as stated & the Vice-President in Enclosure III. where possession in its inception is permissive and continues & the S.C. where adverse possession there can be no adverse possession as against the Rt. Comm. Ns. So, it is not clear how the owner or occupier can become owner of the Rt. Comm. land by adverse possession for 12 years.

Mss 20/11/20. Returned. Please see Ltr. L.U.C.

LRB 20.11.20 re its enclosure & the foregoing

Notes-*continued*

Margin for binding not to be written on.

work

Section 86(3) B.M.L. as it stands at present does not provide for the withdrawal of permission once given on the levy of fees.

If such permission were given its withdrawal might possibly involve the Committee in a claim for compensation; inasmuch as the person concerned has incurred expense in obtaining such permission and in the event of its withdrawal may suffer loss.

It will be seen from the enclosure III that the intention of the Committee is not to give compensation when the land is required for public purposes and resumed by the Committee. It is for consideration whether effect should be given to this in the addition to the Law now proposed.

The addition suggested by Spier on preceding page seems wise in view of his letter from the addition proposed in L.O.C.

21.4.20.

(3) I do not think the ~~former~~ provision as to withdrawal of permission should be enacted.

Unless Committee expends money on land it can't [illegible]

There is a question of stamp duty in this case. Please see para 2 of the principal case.

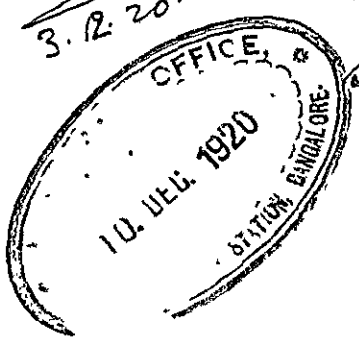
29/11

Draft Sub: transferred.

Draft may issue but these notes may perhaps be sent to P.M.C., (U/S), for perusal & return. He will then know fully the case

3/12

3.12.20.



Issued No 10909 9.12.20

After issue of draft to P.M.C (U/O)

G.O. No. 10910 of 9th Dec 1920

No 567 of 26/4/21

with file No 2946/1893

A/139.

file.

23/12

Margin for binding not to be written on.

File No. 794/1893

S. 142

Office Note.

D.O. Letter No. 2498, dated the 17th/18th June 1921 from the President, Municipal Commn.

SUBJECT.

Plans for erection of pavals, &c.

Please see pls. 138 & 139 and paras 2 & 3 of the office notes at flag O.

Sec 86 (2) of the Bangalore Municipal Law lays down that the Comm. may require by notice the owner or occupier of any building to remove or alter any projection or encroachment referred to, and also provides for the payment of any reasonable compensation for any damage caused by the removal or alteration of any projection or encroachment lawfully in existence at the commencement of the Law.

It is stated that by the proposal to levy an annual fee, the Commn does not expect to raise much revenue. An annual payment is said to keep alive knowledge of mutual rights.

A reference is invited to Sections 222 and 223 of the Madras City Municipal Act, IV of 1919. There is no provision for an annual payment of fees.

Mr Barton has remarked in para 3 of his office note that he does not think that the provision as to the withdrawal of permission could fairly be enacted.

at flag O

S. L.—E. P. B.—6-1920.—10,000.

P.T.O.

It seems that no useful purpose is served by re-opening the matter and pursuing the subject.

Submitted for orders.

Dy. S.
22/6/21

If the commission wish to amplify the case they may perhaps be given an opportunity to do so. At the same time their attention may be drawn to section 223 of Madras Act No IV of 1919; clause 2 of which provides for ~~the~~ permission being given for a specified period at the end of which the construction put up can be removed.

A.S.
22/6

Resident

Please see their notes from para 1 and L.O.C.

(6)

(7) S.142

There seems to me to be a certain amount of redundancy in Section 86 of the Bangalore Municipal Law. The absolute necessity of subsection 3) of that section is not apparent in view of subsections (1) & (2). The latter requires permission in all such cases and provides for the payment of compensation only in certain ~~case~~ cases of somewhat long standing.

If we desire that the Commissioner's powers ~~be~~ be not by repealing subsection (3). In giving permission

Margin for binding not to be written on.

Notes-continued

Margin for binding not to be written on.

The Commr. could always prevent undue projection over or into Streets &c. It seems hardly worth while to make it legally to charge fees for such small projections. may be sanctioned

27. 6. 21

(7) I think the section is all right & personally I would support the Commissioners proposal but I am not going to do so, if my successor does not think it worth while. Commissioner must wait & raise it when he returns.

27.VI.21

Draft S.O. is submitted for approval.

CAS. 28/6/21 28/6

Issued

(8) S. 143 S. 150

ISSUED No S. 785 29. 6. 21

Letter No R.S. 2498, dated the 21st/24th Nov. 1921, from the President, Municipal Commr.

Please see Secs. 142 & 143 and paras 1 to 7 of the previous notes.

The President, M.C., has come up with the matter again.

Submitted for orders.

CAS. 29/11/21 29/11 Madras

Submitted.

These notes may be read from para 1 and the two letters & papers slipped.

1.12.21

Margin for binding not to be written on.

NOTES AND PRECIS.

S. 6.—R. P. B.—7-1919.—4,000.

H. O. 6 — 2,000—21—8—1920.

138

No. 2498 Enc 3,+2 Ptrs

CIVIL AND MILITARY STATION, BANGALORE.

MUNICIPAL OFFICE.

DATED 14th October 1920.

FROM, T. B. RUSSELL, B.A., ESQ., I.C.S.,
President, Municipal Commission,
C. & M. Station, Bangalore.

6.11.20

6/11/20

RESIDENT'S OFFICE
BANGALORE
Register No. 8560
Date of Receipt 16.10.20
File No. 2498/SB

TO MAJOR C. T. C. PLOWDEN, I. A.,
First Assistant to the Hon'ble the
Resident in M y s o r e,
B A N G A L O R E.

SIR,

I have the honour to forward herewith for the information of the Hon'ble the Resident copy of a proposition - (Enclosure I) by the President regarding the levying of fees for contructions of the kind contemplated in section 86 B. M. L and to state that the matter came before the Commission on the 14th August 1920 but was deferred for want of time (vide copy of resolution - Enclosure II).

2. The question came up before the Commission for final decision on the 30th September 1920 and they have approved the addition of the following two clauses to that section (vide copy of resolution - Enclosure III).

Clause IV. For such permission as is contemplated by this section, an annual fee at such rates as the Commission may from time to time determine, may be charged.

Clause V. The Commission may at any time in its discretion withdraw any permission so granted.

3. It may be noted in this connection that under secton 78 the Commission can permit temporary occupations of streets etc. on payment of a fee but they cannot levy fees for granting permissions of the kind referred to in section 86 of the Bangalore Municipal Law. The present proposal does not involve

any new legislation or a new taxation. The addition of the clauses now proposed would not only safeguard the rights of the Commission to the land but would also enable them to get a return for granting permission for such constructions.

4. I therefore request that the Hon'ble the Resident may be pleased to move the Government of India to sanction the addition of the two clauses referred to.

5. Specimen photographs of certain constructions are enclosed for favour of return when no longer required.

I have the honour to be,

Sir,

Your most obedient servant,

for President, 14/10
Municipal Commission,
C. & M. Station, Bangalore.

YL 14/10.
14/10/20.

DESPATCHED.
15 OCT 1920

Enclosure 7

H.O.
7 —200—20—8—1917.

CIVIL AND MILITARY STATION, BANGALORE,
MUNICIPAL OFFICE.

Date

Memorandum of proposition to be laid before the Municipal Commission of the Civil and Military Station of Bangalore :—

NAME OF PROPOSER.

T. J. Tasker, Esquire,
President, Municipal Commission,
Civil and Military Station,
Bangalore.

THE PROPOSITION.

[NOTE.—Commissioners are requested to be concise and to submit propositions on different subjects separately. Copies of this form may be obtained on application at the office.]

Proposed that the Honible the Resident b requested to move the Government of India to make the following additions to section 86 of the Bangalore Municipal Law as clauses (4) and (5) to that section.

Clause 4. For such permission as is contemplated by this section, an annual fee at such rates as the Commission may from time to time determine, be charged.

Clause 5. The Commission may at any time in its discretion withdraw any permission so granted.

"C O P Y"

SECRETARY.

YL. 14/10.

Statement of objects and reasons.

Enclosure II

H. O.
——500—2—6—1920.

Abstract of proceedings of an~~ordinary~~special meeting of the Municipal Commission for the Civil and Military Station of Bangalore held at the Mayo Hall at 8-15 a. m. on 14th August 1920.

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43. Papers regarding the levying of fees for construction of pyals, etc., over drains.

Recommended.

Resolution - Deferred for want of time.

Sd/- T. J. Tāsker,
President,
Municipal Commission,
C. &-M. Station, Bangalore

"C O P Y"

13/8

S E C R E T A R Y.

YL 14/10.

14/10/20.

Council

H. O.
——500—2—6—1920.

Abstract of proceedings of an ordinary ~~xxspecial~~ meeting of the Municipal Commission for the Civil and Military Station of Bangalore held at the Mayo Hall at 8-15 a. m. on Thursday, the 30th September 1920.

---

43. Papers regarding the levying of fees for construction of pyals, etc., over drains.

Recommended that the Hon'ble the Resident be requested to move the Government of India to make the following additions to section 86 of the Bangalore Municipal Law as clauses (4) and (5) to that section.

Clause 4. For such permission as is contemplated by this section, an annual fee at such rates as the Commission may from time to time determine may be charged.

Clause 5. The Commission may at any time in its descretion withdraw any permission so granted.

The Vice President (Mr. Suryanarayana Row) said that the question at issue did not involve any new legislation or a new taxation. He referred to section 78 of the Bangalore Municipal Law and said that the Commission had, at present, been invested with powers to permit temporary occupations of streets etc., and to charge a fee for such occupation at 4 annas per diem for every 25 sq. feet of area or portion thereof. Section 86 contemplated powers of the Commission for granting permission to the owner or occupier of buildings to add to or place against or in fromt of the building any projection or structure overhanging, projecting into or encroaching on any street or into ar any drain, sewer or aqueduct therein but that they had no power to charge fees for granting such permissions. In certain cases it so happened that where such permission was granted the owner or occupier thereof became owner of the Municipal land by adverse possession for 12 years. With a view to safeguard the rights of the Commission in such cases, the proposed addition of clauses 4 and 5 to section 86 of the Bangalore Municipal Law was essential. These clauses provided for charging fee to be determined by the Commission after legislation was passed and for

resuming the land whenever it was required for public purposes - without payment of compensation to the owner of the same. He proposed, therefore, that the recommendation of the Standing Committee be accepted.

Resolution - The recommendation of the Standing Committee - accepted.

Sd/- T. B. Russell,

President,
Municipal Commission,
C. & M. Station, Bangalore.

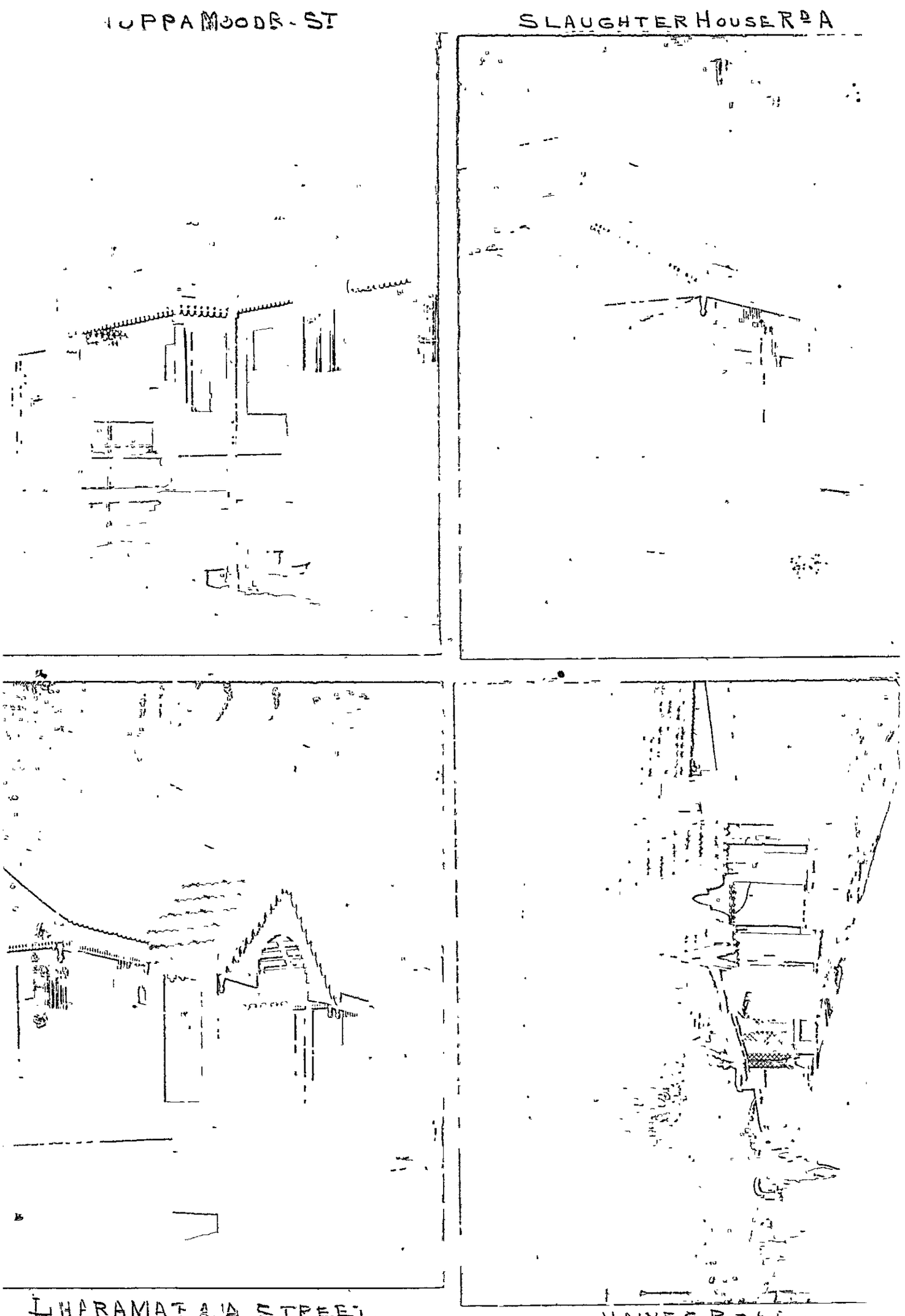
"C O P Y"

13/10

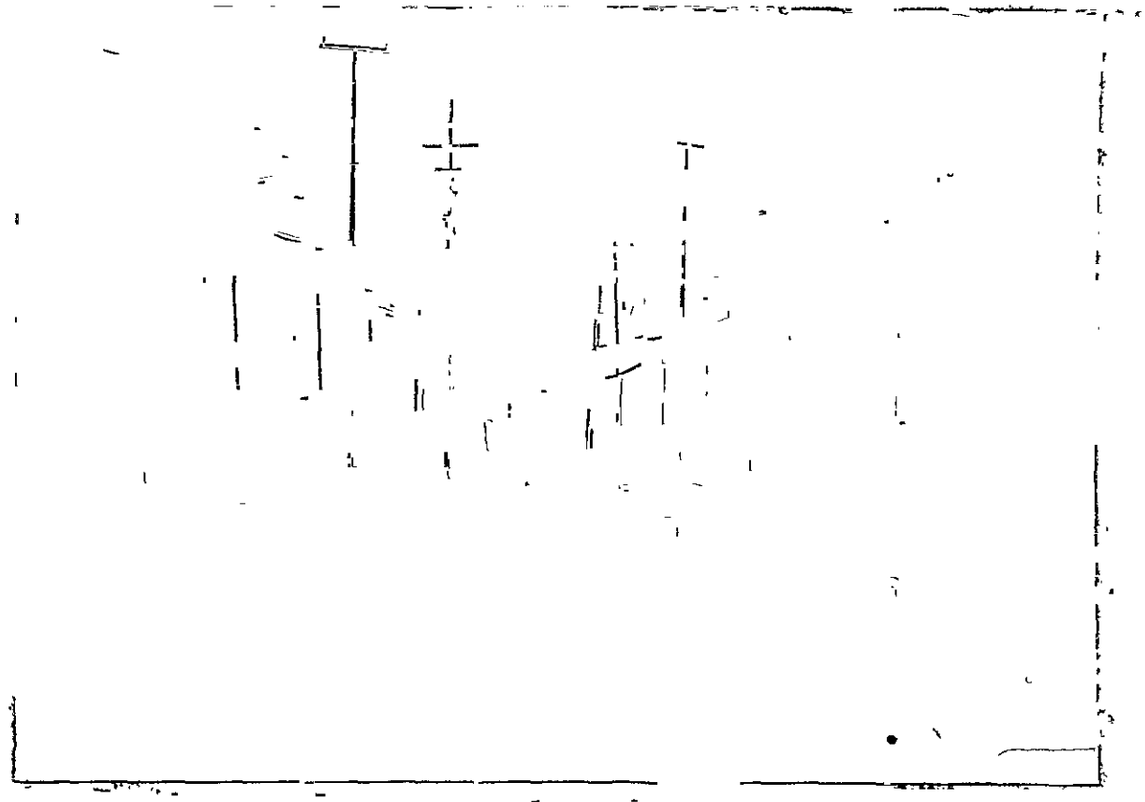
S E C R E T A R Y.

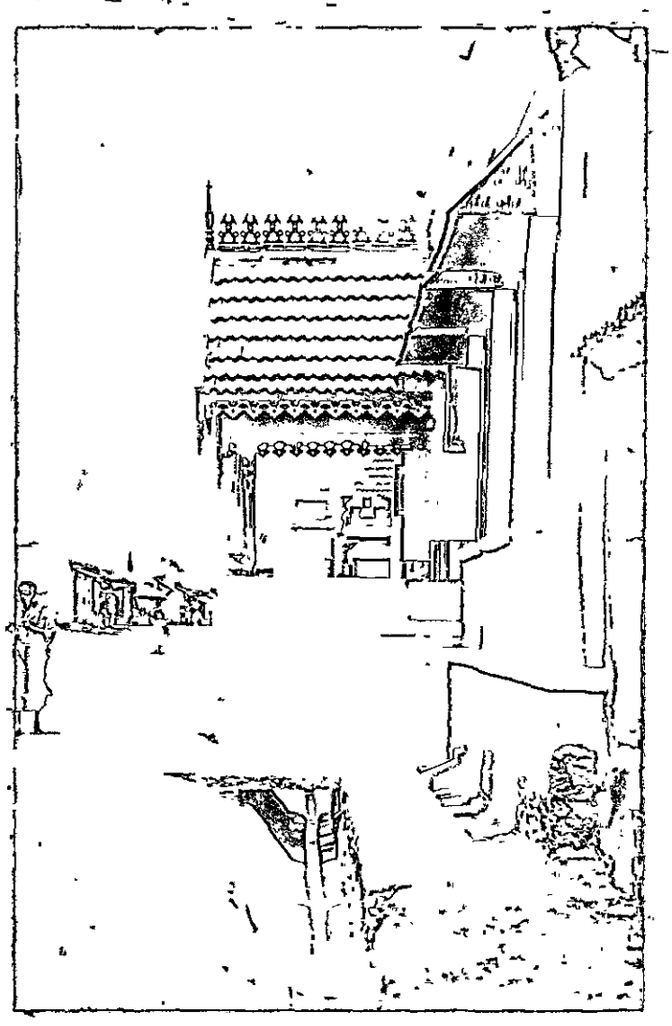
YL, 14/10.

14/X/20.


TUPPA MOODR-ST
SLAUGHTER HOUSE RD A
LHARAMATAJA STREET.
HAINES ROAD.

R.222
3.5.20





—R. P.,B.—12-1919.—10,000.

137

DRAFT.]

From

Major C. T. C. Flowden
for
T. J. Tasker Esq OBE ICS
President, Rumd. Comm.
Com. Station, Bangalore.

To

D.O. No. 10909
dt 9-12-1920

S.138

D.O

Sir, My Dear Tasker,

With reference to Russell's letter No 24.95, dated the 14th. oct 1920, I am directed to state that the Honble the Resident is of opinion that, unless the Commr. expects a substantial revenue from fees, the Question of adding the two Clauses proposed to Section 86 of the B. M. L Cs. Act should be taken up - yours sincerely

J.S. 4.12.20

KB 3.12.20

VS 3/12

BANGALORE C & M MUNICIPALITY

Office Hours:—
11 A. M. to 5 P. M.
Telephone No. 55.

Mayo Hall,

17TH JUNE 1921

No. 2498.

BANGALORE.
Number A— 4742
Date of Receipt 21/6/21

My Dear Resident,

EC 137 Will you please refer to your No. 10909, dated the 9th December 1920, regarding fees for erection of pyals etc?

The case was sent up during my absence on leave but was worked up before I left.

The Commission does not expect to raise much revenue. Its main object is to enable the Commission to grant what is undoubtedly an amenity to a bazaar house without the fear that its rights may be endangered. The law already provides for permission being necessary and this safeguards municipal ownership in the land, but records have a way of being obscured and there is nothing like an annual payment to keep alive knowledge of mutual rights. Further no private person would ordinarily allow another to occupy land for nothing.

As regards withdrawal of such permission, it sometimes becomes necessary to alter or widen drains or make some other structural alteration to a street. The photographs will make this clear.

The Commission is desirous that the matter should go forward. If the Resident feels that a good enough case has not been made out, perhaps he would give the Commission an opportunity of amplifying it.

Sincerely Yours,

TO

THE SECRETARY,
TO THE HON'BLE THE RESIDENT IN MYSORE
BANGALORE.

I7S6=21

143

D.O. 5783 T

Dated 29 June 1921.

My dear Tasker,

Please refer to your demi-
sd/42 official letter No.2498, dated the 17/18th June 1921, regarding fees for erection of pyals, etc., I am desired to state that Colonel Knox would like that the question be held over and raised again when Mr. Barton returns from leave.

Yours Sincerely
Sdy J. Marsden

To
T. J. Tasker, Esq., O.B.E., I.C.S.,
President, Municipal Commission,
Civil & Military Station,
BANGALORE

BJ

150

H. O.
6 — 2,000—22—9—1921.

No. R.6.2498

CIVIL AND MILITARY STATION, BANGALORE,

MUNICIPAL OFFICE.

DATED 21ST/24th NOVEMBER 1921

FROM

T.J. T A S K E R C.B.E. ESQ., I. C. S.,

President, Municipal Commission,

C & M. Station, Bangalore.

9.24/1893

To

THE SECRETARY TO THE

HON'BLE THE RESIDENT IN MYSORE

BANGALORE.

RESIDENT'S OFFICE,
BANGALORE.
Register No. 8988
Date of Receipt 26/11/21
Diary No. 24493

SIR,

With reference to the correspondence ending with your D.O. No. 5783, dated the 29th June 1921, regarding the levy of fees for erection of pyals etc, I have the honour to request you will be so good as to take up the matter again.

X 743.

I have the honour to be,

Sir,

Your most obedient servant,

24.11.21

FOR PRESIDENT,
MUNICIPAL COMMISSION,
~~CIVIL AND MILITARY~~ STATION,
BANGALORE.

I.S.

21=11=21

23/11/21

151

R. O. 2.—R. P. B.—8-1921.—2,000

No. 10554. Enclos.

Dated Bangalore, 5 December 1921.

From

Major T. E. Plowden,

SECRETARY TO THE RESIDENT IN MYSORE.

To

The President,
Municipal Comm^r,
Cantonment, Bangalore

Sir,

Subject. The levy of fees for erection of pyals, &c

With reference to your letter No RC. 2498, dated the 21st/24th November 1921, on the above subject, I am directed to state that the Resident does not think that the Law does not require any alteration by the Municipal Comm^r give permission to any one to build out on to the street or over a drain, they can prescribe any conditions they like, including a quit rent. It is not worth while going up to the Govt of India in the matter.

I have, &c,

T. E. Plowden

Secretary to the Resident

C.R.B. 2/12/21

V.S. 2/12